

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 18-80165-CR-MIDDLEBROOKS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JUSTIN MORGAN WAYNE,**

**Defendant,**

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**DEFENDANT'S MEMORANDUM IN AID OF SENTENCING**

**I. INTRODUCTION**

On August 30, 2018, Justin Wayne (herein after referred to as "Justin") pled guilty to Conspiracy to Commit Healthcare Fraud in violation of 18 USC § 1347 and 1349. He is presently scheduled to be sentenced on November 1, 2018.

Probation has calculated Justin's Total adjusted Offense Level to be 24. However, pursuant to the plea agreement entered herein, the parties have agreed to recommend a variance to a total adjusted offense level of 23, with a sentence at the low end of the advisory guideline sentencing range of 46 to 57 months. It is also anticipated that the government will ultimately file a Motion for Downward Departure due to Justin's substantial assistance to the government. This Memorandum in Aid of Sentencing is being filed pursuant to Rule 32 of the Federal Rules of Criminal Procedure to give the Court greater insight into Justin's history and background for the purposes of understanding the basis for the parties' joint sentencing recommendation and to assist the Court's required independent analysis pursuant to 18 U.S.C. 3553(a).

## I. **Justin Wayne's Background and History**

Justin Wayne's life is defined by his generosity and kindness of spirit, his warmth, and his compassion. Those who know him well, those who have spent time with him, tell of an exceptionally kind and good-hearted man who has touched the lives of many people. Justin's cousin, Tracy Brown, writes:

Growing up Justin was a large than life person to me. He was tall, good-looking, extremely bright, and a professional baseball player. You might think someone with these traits would be egotistical and aloof; but Justin always disarmed people with his smile and generosity. In our single days, I loved introducing him to friends of mine because he truly had it all. So much so that I introduced him to my closet friend and they dated briefly (and only didn't last because of the distance). Justin was (and still is) the guy who held the door open for women, always picked up the bill, and was always there when you needed someone to talk to. He is kind and caring and compassionate. Despite his good looks and impressive bio, Justin was never the guy interested in quick flings with girls. From our early twenties, Justin longed for a deep connection and relationship. He knew he wanted to be a good husband and father. Likewise, when I was finding my way in my 20s, Justin is who I would call when I needed advice or support. Whether it was about dating, or when I was debating going back to school for social work, Justin was always there. He was always so thoughtful and showed good judgment.

Exhibit "C", annexed hereto and incorporated by reference.

Born and raised in a middle-income neighborhood in Honolulu, Hawaii, Justin was one of three boys raised in an extremely close family. He and his two brothers were each accomplished athletes though Justin particularly excelled in baseball and soccer. Justin was ultimately accepted into the highly selective Punahou School throughout his formative years. (See Letters of support for Justin submitted herewith as Composite Exhibit A-W, annexed hereto and incorporated by

reference)).

Due to his unique combination of intelligence and talent, Justin was accepted into Stanford University in California, where he participated in rigorous academics and played baseball. Then, in the summer of 2000, he was selected by the Montreal Expos as the fifth pick of the first round of the professional baseball draft. Justin played “Class A” summer ball in Jupiter, Florida, and then completed his final two classes at Stanford University, receiving an undergraduate degree in economics the follow year. During that time. Justin bought a condominium in Jupiter, Florida, but he continued to split his time between South Florida and Honolulu so that he could spend time with his family.

Justin was called up to the major leagues in September of 2002 year. He then bounced between “AAA” ball and the major leagues as a starter and relief pitcher until the Marlins released him in the spring of 2005. He had some minor stints with other major league clubs but was retired from baseball by 2006. He had been seeing a sports psychologist; but admittedly, he just could not throw enough strikes.

Despite being a professional athlete, Justin never let his status as a professional ball player affect his sense of humility or compassion. His Aunt, Arlene Pokrass, observes:

I got to know Justin even better once he started to play in the baseball minor leagues. My husband and I were able to go to many of his games that were in Pennsylvania, New York, New Jersey and Connecticut. This is where he showed me what a sweet caring person he is.

After each game in the minor leagues, he would come out of the clubhouse where the fans would gather hoping to get signatures of the players. As he was going back into the clubhouse after a game in New

Jersey, I came up to him to ask a favor. There was an 8 year old boy who was afraid to be in a middle of a crowd due to Autism. When I pointed him out to Justin, Justin turned around and went out to meet and talk with this child. Watching the face on this child was priceless.

Another time, Justin was playing for a team in New Jersey. The team would come to Long Island to play. While the team would stay at a hotel, Justin chose to stay with my husband and me instead. On one of his weekends with us, Justin had a free afternoon and decided to come to the beach with me. Some of the younger kids (they knew he played professional ball) came over to meet Justin. Justin then proceeded to play catch with them and to teach them how to throw the ball. Once again he showed us the caring person that he was and still is.

Exhibit "Q", annexed hereto and Incorporated by reference.

At the conclusion of his baseball career, Justin remained in Jupiter, Florida.<sup>1</sup> He explored various career opportunities from 2006 through 2011, ultimately selling insurance and securities for New York Life from 2011 and 2014. During this time, Justin continued to reveal his compassion for others. Indeed, Constantine S. Hatzivassiliou, details how Justin supported his then girl-friend and her family, committing to pay off her and her brother's law-school debt. Justin Continued to honor this financial commitment even when he and his girl-friend broke up. Mr. Hatzivassiliou writes:

I had the pleasure of meeting Justin Wayne for the first time over a decade ago when I was assigned as his financial account during my tenure at Bernstein Global Wealth Management. Within months of meeting Justin, he called me seeking advice regarding a personal

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<sup>1</sup> His parents bought a house in South Florida in 2005 to be close to Justin and traveled between Florida and Hawaii until 2018, when they finally made Florida their permanent home.

financial matter. During our meeting, he shared that he wanted to better understand his ability to financially support the woman he was dating (Jennifer) and her immediate family (Brother Josh and Mom Patty).

In the beginning of the analysis, it was evident that Justin was being incredibly generous with his limited finances. Justin created and implemented a plan to pay off existing Law School debt for both Jennifer and Josh and advance pay future law school tuition. Justin was supporting Jennifer who was suffering from severe vertigo and was also subsidizing Patty due to her debilitating autoimmune disease. I repeatedly questioned Justin's decision to assume their liability since it wasn't financially prudent; however, he insisted it was the right thing to do considering all of the issues they were facing. It was a completely selfless act that forever changed my perception of the "stereotypical professional athlete".

Exhibit "L", annexed hereto and Incorporated by reference.

Letter after letter submitted herewith describes Justin as a loving, kind, warm and generous man. Both relatives and friends describe him as a mentor and role model to them and their children. Long-time friend Matthew Bolte writes:

I have known Mr. Justin Wayne since 2008. We meet at a gym in Jupiter when he was getting ready to make a return back to the Majors and I was getting ready for the college season. From the beginning Justin and I became good friends and over a short period Justin became a brother to me and another son to my parents. Justin is a type of person that will give you his shirt off his back. He literally did this for me. Shortly after we became friends I was getting ready to go through my first baseball season in Cleveland, Ohio. Justin went through all his old baseball gear and gave me his winter gear knowing that I didn't have any. Because of this my wife and I have asked Justin to be the Godfather of our two sons and if anything ever happened to me and my wife that he would raise my boys as his own. This is a true friend.

For those that don't know Mr. Justin Wayne, I can personally

attest that he is a man of kindness, and generosity. He's a person that always tends to put other people needs first ahead of his own. I have been truly blessed to be able to call Justin Wayne not only a friend but a brother over the last 10 years.

Exhibit "A", annexed hereto and incorporated by reference.

Marcos Gonzalez also writes:

The way I met Justin in 2008 illustrates perfectly who he is as person. One night I was having dinner at a local restaurant and met by coincidence his brother Hawk eye. When our conversation turned to how much I enjoyed coaching my son's little league team at Phipps Park in West Palm Beach, Hawkeye mentioned that his brother had played Major League Baseball for the Florida Marlins. As I was leaving the restaurant that night, understanding that it would be a long shot, I mentioned to Hawkeye that it would be wonderful if a Major Leaguer like his brother could come and speak and work with the players I coached at Phipps Park. Not thinking Justin would be interested in giving his time to someone he had never met, I was shocked when, the following morning, I received a call from Justin introducing himself and offering to work with the kids.

A few days later, Justin came to the park and spent almost 3 hours talking to the young kids about baseball fundamentals, and his experiences as a baseball player at Stanford University and with the Florida Marlins. The kids were incredibly excited and listened to every word spoken by Justin. In that group of young players was my 7 year-old son Marcos Jr. Justin has remained an important part of my son's life since meeting him at Phipps Park. After that initial meeting, he not only continued working on Marcos' pitching fundamentals, but more importantly, has always over the years given him advice about the importance of academics and developing as a quality young man.

Although Marcos Jr. is no longer playing competitive baseball, he has excelled in school academically, and has aspirations of attending Standford University just like Justin.

Marcos Jr's. academic achievements are in no small part attributable to the mentoring of Justin. I was particularly excited when Justin married his wonderful wife Ashley, and shortly thereafter had their first-born Myles. More recently they've been blessed with the birth of their daughter Leilana. I've often spoken to Justin about the positive impact he's had in my son's life, and how I think he will be an excellent father.

Exhibit "K", annexed hereto and incorporated by reference.

*Family*

As described by so many of his family members, Justin comes from a particularly close family and couldn't wait to start a family of his own. In November 2014, Justin met Ashley Glassman, a pre-school teacher. They were married in December 2015. The couple has a wonderful marriage with two young children: a son, Myles, who was born in 2016, and a baby girl, Leilana, who was born just this year. Ashley has stopped teaching to stay home and raise their children. She has stood by Justin in the face of this extremely difficult time.

Indeed, Justin has the full support of his entire family. His cousin, Jodi Brown writes:

Over the past 10 years, I've watched Justin fall in love, struggle with hard life decisions, end relationships, fall apart, rebuild himself, fall in love again, marry a beautiful woman, have children, and become the family man he dreamed of being. It's been tough hearing about the pain and personal disappointment he's been going through. He is his toughest critic. I know in my heart that he will not allow these charges to define him and that he will persevere. We will also not allow this situation to define the entirety of the man he is. He will continue to have my support as he and his family navigate this difficult time.

Exhibit "B", annexed hereto and Incorporated by reference.

#### **History of Alcohol Abuse and request for a Recommendation to RDAP**

Sadly, despite his many blessings, and perhaps due to his particularly sensitive nature, Justin has grappled with alcohol addiction from a very young age. He began drinking socially with friends in high school, usually beer and apparently confined to weekends. Then, throughout college, Justin turned to alcohol to deal with the stress associated with highly competitive academics and athletics. By the time Justin was playing professional baseball, he was turning to alcohol to deal with the stress of professional athletics, to cope with injuries, to adjust socially at parties, as well as when he was alone. By the time Justin left baseball, he was a full-blown addict, often intoxicated on beer, vodka and rum.

When his baseball career ultimately ended and Justin was forced to reinvent himself, he

fell into a deep depression and suffered from anxiety. Through his years with New York Life and Smart Lab, Justin admits that he drank from 5 to 10 drinks a day and was often intoxicated. Since his arrest herein, Justin has admitted to and confronted his addiction. Justin is now fully committed to his sobriety and would certainly benefit from a continuation of his addiction Counseling.

Justin respectfully asks the Court to recommend to the Bureau of Prisons (BOP) that he be considered as a candidate for the RDAP program. Justin acknowledges and understands that this is only a recommendation with no guarantee that he will be accepted into the program. However, he respectfully submits that the tools learned in RDAP would assist him to readjust once he is released from prison. Most importantly, he recognizes his problem and wishes to effectively deal with it so that he can be a better father/husband/member of society.

**II.      *Booker and its Progeny Provides the Court with the Discretion to Impose a Variance Sentence as Proposed by the Parties***

As the Court well knows, pursuant to *United States v. Booker*, 543 U.S. 220, 245-67 (2005), a court is now unencumbered in its ability “to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue.” *Gall v. United States*, 552 U.S. 38, 53 (2007) (quoting *Koon v. United States*, 518 U.S. 81 (1996)). 18 U.S.C. § 3553(a)(2), requires sentencing courts to consider not only the advisory Guidelines range, but also the facts of the specific case through the lens of seven factors, including:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed--
  - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
  - (B) to afford adequate deterrence to criminal conduct;
  - (C) to protect the public from further crimes of the defendant; and
  - (D) to provide the defendant with needed educational or vocational

- training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
  - (4) the kinds of sentence and the sentencing range established;
  - (5) any pertinent [Sentencing Commission] policy statement;
  - (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
  - (7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a)(1)-(7)

Against this backdrop of factors, Justin respectfully submits that a variance sentence to the low end of the guideline range of a total adjusted offense level of 23 (46-57 months) as recommended by the parties is appropriate in his case, as further described below.

**A. *The Nature and Circumstances of the Offense and the History and Characteristics of the Defendant***

A defendant's criminal conduct must be considered in the context of his entire life. As Judge Rakoff noted in *United States v. Adelson*, 441 F. Supp. 2d 506 (S.D.N.Y. 2006):

But, surely, if ever a man is to receive credit for the good he has done, and his immediate misconduct assessed in the context of his overall life hitherto, it should be at the moment of his sentencing, when his very future hangs in the balance. This elementary principle of weighing the good with the bad, which is basic to all the great religions, moral philosophies, and systems of justice, was plainly part of what Congress had in mind when it directed courts to consider, as a necessary sentencing factor, 'the history and characteristics' of the defendant.

*Id.* at 513–14.

Such a weighing of the good with the bad reveals that Justin's criminal conduct is at odds with the rest of his life.

***Acceptance of Responsibility***

Justin immediately expressed remorse and accepted responsibility for his involvement in

this offense to the government. He has been actively cooperating with the government's investigation, and as referenced above, *infra*, it is anticipated that the government will file a Motion for Downward Departure due to his substantial assistance,

Additionally, Justin has agreed to make full restitution, joint and several, with his co-defendants at the time of sentencing. The Probation Office and the parties agree that the amount owed as restitution for the Smart Lab fraud is \$2,897,389.50. *See* paragraphs 12 and 13 of the written Plea Agreement and the PSR ¶136. Justin offers no excuses for his conduct, fully accepts responsibility for his actions herein, and is doing all he can to rectify the harm he has caused.

***B. The Need for the Sentence Imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense***

It is respectfully submitted that the parties' joint recommendation herein accomplishes the objectives of sentencing enunciated above. It is acknowledged that sentences are designed to, among other things, punish and promote respect for the law. However, it is respectfully submitted that the incarceration facing Justin herein is not the only form of punishment faced by him. He is also facing additional penalties and hardships that will undoubtedly accompany his felony conviction.

The collateral consequences of a felony conviction are harsh in and of themselves. Indeed, in a recent opinion, Judge Fredrick Block concluded that, "sufficient attention has not been paid at sentencing... to the collateral consequences facing a convicted defendant. And I believe that judges should consider such consequences in rendering a lawful sentence." *United States v. Nesbeth*, Case No. 1:15-cr-00018, 2016 WL 3022073, at \*1 (E.D.N.Y May 24, 2016)(varying downward from guideline range of 33 to 44 months imprisonment to one-year of probation for a drug defendant based in part on the number of statutory and regulatory consequences he faced

as a convicted felon); *see also* Jeremy Travis, *Invisible Punishment: An Instrument of Social Exclusion*, in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (Marc Mauer & Meda Chesney-Lind eds., 2002).

For Justin, the most severe aspect of the prospective sentence herein is, of course, the fact that he will not be available to assist his wife in raising their two young children, either financially or emotionally, and that he will miss a significant period of their lives. This collateral consequence will be devastating for both Justin and his children. It is well documented that children with fathers who have been incarcerated become “collateral damage”. Such children are significantly more likely than other children to be expelled or suspended from school (23 % compared with 4 %). See Pew Charitable Trusts Report “Collateral Costs: Incarceration’s Effect on Economic Mobility” (2010) at page 5. Parental incarceration also “contributes to higher rates of delinquency, mental illness, and drug abuse, and reduces level of school success and later employment among their children.” Unlocking America, Why and How to Reduce America’s Prison Population (JFA Institute, November 2007) at page 32. This is reason enough for the Variance agreed to by the parties.

It is accordingly respectfully urged that the Court consider all collateral consequences of punishment in considering the propriety of the parties’ agreement. In *Nesbeth*, the court asserted that the collateral effects of a criminal conviction can be “devastating” to a defendant. *Nesbeth*, 2016 WL 3022073, at \*1.

***To afford adequate deterrence to criminal conduct***

The principal of general deterrence is based on the unsupported premise that prison sentences deter crime. This faulty conception has resulted in mass incarceration.

For the past 40 years, the United States has been engaged in a vast, costly

social experiment. It has incarcerated a higher percentage of its people, and for a longer period, than any other democracy. In fact, with 5 percent of the world's population, the U.S. is home to 25 percent of its prisoners. There are five times as many people incarcerated today than there were in 1970. . . [The] archipelago of prisons and jails costs more than \$80 billion annually — about equivalent to the budget of the federal Department of Education.

Dr. Oliver Roeder et al., *What Caused the Crime Decline?*, Brennan Center for Just., 22-23 (Feb. 12, 2015), available at <https://www.brennancenter.org/publication/what-caused-crime-decline>.

The condition of mass incarceration is especially troubling since there is no correlation between punishment and reductions in crime. *See id; see also* Gary Kleck and J.C. Barnes, *Deterrence and Macro-Level Perceptions of Punishment Risks: Is There a "Collective Wisdom"?*, 59 Crime & Delinquency 1006, 1031-33 (2013). Kleck and Barnes' study concludes:

there is generally no significant association between perceptions of punishment levels and the actual levels of punishment that the criminal justice system achieves. This in turn implies that increases in punishment levels do not routinely reduce crime through general deterrence mechanisms, because the fundamental link between actual punishment levels and perceptions of punishment levels appears to be weak to nonexistent.

(*Id.* at 1031). The United States Department of Justice agrees with the conclusion that incarcerating defendants is not an effective means of deterrence. *See* U.S. Dept. of Justice, Nat'l Inst. of Justice, *Five Things About Deterrence* (July 2014). In fact, the Department of Justice finds that even increasing the severity of punishment does little to deter punishment. (*See id.*); *see also* Hannah Arendt, *Eichmann in Jerusalem*, Epilogue (1963) ("No punishment has ever possessed enough power of deterrence to prevent the commission of crimes"). In this regard, it is urged that the restitution herein, coupled with the collateral consequences to Justin are more than sufficient to serve as a warning to all considering such conduct.

**C. To protect the public from further crimes of the defendant (Specific Deterrence)**

The sentence agreed upon herein by the parties amply satisfies the goal of specific

deterrence. Justin has no prior criminal history, and nothing suggests he is at risk of recidivism.

In sum, Justin does not need a lengthy sentence to encourage him to be a positive asset to the community. Nor does the empirical evidence establish a relationship between sentence length and specific deterrence, regardless of the type of crime. *See National Institute of Corrections, Myths and Facts, Why Incarceration is Not the Best Way to Keep Communities Safe* (2016). Indeed, studies repeatedly affirm that lengthy sentences do not satisfy the enunciated goals of sentencing other than punishment. The 2016 study by the National Institute of Corrections (hereafter, “NIC Study”) establishes three critical tenets. First, incarceration has a negligible impact on crime prevention. Instead, a longer prison sentence may actually lead to a greater risk of recidivism. There is strong evidence that prison—by disrupting education and employment, reducing prospects for future employment, weakening family ties and exposing less serious offenders to older more serious offenders—leads to increased recidivism. *See The Criminogenic Effects of Imprisonment: Evidence from State Panel Data 1974-2002*, 6 Criminology & Public Policy 589 (2007). Moreover, harsh penalties do not improve the long-term outcomes of the offender. See NIC Study; See also Friedrich Nietzsche, *The Genealogy of Morals*, essay 2, aph. 14 (1887) (“All in all, punishment hardens and renders people more insensible; it concentrates; it increases the feeling of estrangement; it strengthens the power of resistance”). Finally, the study concludes that community correction programs are more effective in reducing recidivism. *Id.* at 5.

Furthermore, Justin is in a Criminal History Category of I. For all male offenders in Criminal History Category I, the recidivism rate is 15.2%. *See, e.g., Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines* at 28 (May 2004). Justin certainly does not appear to be in the minority of that group.

Indeed, there is tremendous support in the congressional record and in caselaw for a variance for defendants like Justin who have no criminal history and are of a mature age. *See* 28 U.S.C. § 994(j); *United States v. Ward*, 814 F. Supp. 23, 24 (E.D. Va. 1993) (granting departure based on defendant's age as first-time offender since guidelines do not "account for the length of time a particular defendant refrains from criminal conduct" before committing his first offense); *see also United States v. Paul*, 561 F.3d 970, 973 (9th Cir. 2009) (where defendant convicted of embezzlement and faced a guidelines sentence of 10-16 months, sentence of 15 months was unreasonably high in part because defendant was a first-time offender with no criminal record whatsoever); *United States v. Autery*, 555 F.3d 864 (9th Cir. 2009) (district court's *sua sponte* variance to probation not unreasonable in part because guidelines "did not fully account for [the defendant's] complete lack of criminal history"); *United States v. Urbina*, slip op., 2009 WL 565485, \*2-3 (E.D. Wis. Mar. 5, 2009) (considering low risk of recidivism indicated by defendant's lack of criminal record, positive work history, and strong family ties);

#### **E. The Kinds of Sentences Available**

As recognized in *Gall*, district courts "may not presume that the Guidelines range is reasonable." 552 U.S. at 49, 128 S. Ct. at 597. Thus, mitigating circumstances and substantive policy arguments that were formerly irrelevant in only the most unusual cases are now potentially relevant in every case. Indeed, the guidelines pose a risk of falsely provide a promise of predictability and fairness. Judge Presnell from the Middle District of Florida observed:

Criminal behavior can fuel public outcry and drive broad legislative and executive agendas to get "tough on crime." But how does that translate to specific instances? If you take a matrix to factor offense severity, overlay it with mandates born of popular outrage, and tailor it purportedly to address almost every eventuality, you get "justice" dictated in advance, marked by visceral condemnation, and based on

the pretense of omniscience.

*United States v. Williams*, 372 F.Supp.2d 1335, 1337-1338 (M.D. Fla. 2005) (Presnell, J.).<sup>2</sup>

It is respectfully submitted that as a society, we are beginning to recognize that punishment is not the paramount goal of sentencing. All goals of sentencing, including rehabilitation and reintegration, promoting cooperation with law enforcement, promoting restitution, promoting family unity, etc., ultimately serve the community at large and the individual alike. In this case, a variance sentence at the low end of Offense Level 23, as agreed to by the parties, would serve to adequately punish Justin, while also reflecting the other enunciated goals of sentencing including rehabilitation and reinforcing Justin's community and family ties.

### CONCLUSION

As the foregoing establishes, the circumstances presented in Justin's case warrant the variance agreed to by the parties to the low end of offense level 23. Because the decision in *Booker* has made the Guidelines advisory and the parsimony clause of 18 U.S.C. § 3553(a) the paramount consideration, Justin respectfully submits that such a variance is appropriate.

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<sup>2</sup> Although *Williams* was reversed by the Eleventh Circuit in *United States v. Williams*, 456 F.3d 1353 (11th Cir. 2006), the Eleventh Circuit's decision was overruled by the United States Supreme Court. See *Kimbrough v. United States*, 552 U.S. 1353 (2010).

**Dated:** October 29, 2018

Respectfully submitted,

**RICHARD G. LUBIN, P.A.**  
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Attorneys for Defendant

By: /s/ Richard G. Lubin  
**RICHARD G. LUBIN**  
Fla. Bar No. 182249

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on October 29, 2018, I electronically filed the foregoing document with the Clerk of Court using CM/EC and that the foregoing document is being served this day on all counsel of record or *pro se* parties, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Richard G. Lubin  
**RICHARD G. LUBIN**

Matthew Bolte

36 Otero Point

Saint Augustine, Florida 32095

October 5, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Your Honor,

It is my honor and privilege to write a character reference letter on behalf of Mr. Justin Wayne.

I have known Mr. Justin Wayne since 2008. We met at a gym in Jupiter when he was getting ready to make a return back to the Majors and I was getting ready for the college season. From the beginning Justin and I became good friends and over a short period Justin became a brother to me and another son to my parents. Justin is a type of person that will give you his shirt off his back. He literally did this for me. Shortly after we became friends I was getting ready to go through my first baseball season in Cleveland, Ohio. Just went through all his old baseball gear and gave me his winter gear knowing that I didn't have any. Because of this my wife and I have asked Justin to be the Godfather of our two sons. Justin even promised that if anything ever happened to me and my wife, that he would raise my boys as his own. This is a true friend.

For those that don't know Mr. Justin Wayne, I can personally attest that he is a man of kindliness, and generosity. He's a person that always tends to put other people needs first ahead of his own. I have been truly blessed to be able to call Justin Wayne not only a friend but a brother over the last 10 years.

Thank you, your Honor, for giving me the opportunity to tell you about my friend.

Yours sincerely,



Mr. Matthew Bolte

October 10, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Re: Justin Wayne

Dear Judge Middlebrooks,

I'm writing to you about my cousin, Justin Wayne. While Justin and I grew up miles away from one another, he in Hawaii and I in New York, our families did a great job staying connected. As young children, our grandfather would record video messages and send them back and forth so that we could see each other. I can remember how excited I was when I found out my Aunt Hope and Uncle Jeff were bringing Justin and his brothers to New York to visit. I believe we were both in elementary school. Taking them to Yankee Stadium and having them around was a really special time for our family. I don't believe I saw them in person again until Justin was 13. He and our other cousin Michael were the same age, they celebrated their Bar Mitzvah together in New York with all of our extended family.

Years later, when Justin and his brother Hawkeye were in college, instead of returning to Hawaii for Thanksgiving, they came and spent it at my home with all of our family in New York. I didn't understand it at the time but, it was during all these visits, that a bond was being formed.

It wasn't until after college that Justin and I really became close. I was living in Maryland at the time and he was in the Minor League Baseball system playing for a team in Pennsylvania. Living so close to one another allowed me to go to his games and spend more time with him. Being able to see him play was a treat. While he was having fun and living life as a young athlete, I got to know him as a sweet, humble, family man. As the only girl in the family, I think he liked having someone to confide in. Whether we were discussing girls, dating, his future goals of having a family, or the stressors of professional baseball, I

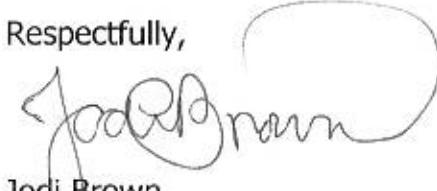
think Justin always knew I would listen without judgement and be there to support him.

When Justin moved up to the Majors, our family was so proud of him. It saddened me to have him leave for Florida because having him nearby was so nice. Needless to say, when my husbands job relocated us to Florida in 2008, I wasn't disappointed. Justin and his brothers were there to help with the transition. With an infant, a toddler, and no friends, Justin was pleasure to have around. He was a great support at a difficult time in my life. He was so good with my boys despite some playful rough housing. I loved watching this big, strong man be such a natural, gentle, kind soul with the children. He has been an excellent influence on them.

Over the past 10 years, I've watched Justin fall in love, struggle with hard life decisions, end relationships, fall apart, rebuild himself, fall in love again, marry a beautiful woman, have children, and become the family man he dreamed of being. It's been tough hearing about the pain and personal disappointment he's been going through. He is his toughest critic. I know in my heart that he will not allow these charges to define him and that he will persevere. We will also not allow this situation to define the entirety of the man he is. He will continue to have my support as he and his family navigate this difficult time.

Thank you for taking the time to read this . If there is any additional information I can provide , please let me know.

Respectfully,



Jodi Brown

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

October 18, 2018

To Judge Middlebrooks,

I am writing on behalf of my cousin, Justin Wayne, whom I've known for 39 of my 40 years of life (I'm one year older than him). Justin is the kindest, most gentle soul and I feel terrible for the trouble he has gotten himself into.

The Justin I know is a generous, caring and thoughtful man who cares deeply about the ties of family. Despite Justin growing up in Hawaii, and I, in New York, we saw each other often. Justin, just like his parents, Hope and Jeff, are what my uncles refer to as "good family people." To them this means Hope and Jeff believe very strongly in the importance of close family relationships, and instilled this value in Justin. The Waynes visited New York frequently and maintained close ties with our large extended family. I also visited them in Hawaii. As Justin and I are only one year apart, and spent a lot of time together, especially when we were both living in Florida.

Growing up Justin was a large than life person to me. He was tall, good-looking, extremely bright, and a professional baseball player. You might think someone with these traits would be egotistical and aloof; but Justin always disarmed people with his smile and generosity. In our single days, I loved introducing him to friends of mine because he truly had it all. SO much so that I introduced him to my closet friend and they dated briefly (and only didn't last because of the distance). Justin was (and still is) the guy who held the door open for women, always picked up the bill, and was always there when you needed someone to talk to. He is kind and caring and compassionate. Despite his good looks and impressive bio, Justin was never the guy interested in quick flings with girls. From our early twenties, Justin longed for a deep connection and relationship. He knew he wanted to be a good husband and father. Likewise, when I was finding my way in my 20s, Justin is who I would call when I needed advice or support. Whether it was about dating, or when I was debating going back to school for social work, Justin was always there. He was always so thoughtful and showed good judgment.

I'll never forget the first day Justin pitched in the major leagues. It was against the NY Mets, which couldn't have been more convenient as the majority of our family resides in NY and attended. After the excitement of the game, Justin invited my sister and I to go out with him that evening. I clearly remember meeting up with him at the Grand Hyatt in NYC, and listening as many famous ,major league baseball players asked him to join them for a night out. I wouldn't have begrudged him should he have gone, after all, he finally made it! This was his first night in the major league, surrounded by big time athletes! But Justin politely declined

stating he wanted to spend time with his cousins. I still feel honor and pride now as I think about that. It's funny the things you remember....I remember his opening the door for us, insisting on picking up the bill, but most of all his easy-going and warm nature.

Which leads me to now. It's hard for me to reconcile these thoughts of Justin with the trouble he's gotten himself into. As a licensed clinical social worker and psychoanalytically trained psychotherapist, I can clinically say Justin does not possess any of the character traits typically associated with one who commits a crime. He is far from narcissist; he is kind, warm, thoughtful and generous. He is a selfless husband to his wife and father to his two children, always looking out for their best interests. A few years ago when I was having trouble with my newborn daughter's colic, Justin was who I called for advice and support, just as I have for the past 30 years.

He was always sensitive and what my family called "an emotional ball player." I recall them saying that if he was less emotional, and didn't think as much, maybe he would have had a longer baseball career. That was what I personally loved about Justin, he has always had a huge heart. The only thing that makes sense to me is that his fall from baseball broke his heart. Justin has struggled to find work that was meaningful for him in the years since baseball. He's never been one to care about fancy things...cars and clothes are not important to him. His primary love is for his family, and I can only speculate that the mistakes he made were in trying to provide for them.

Thank you for this opportunity to share with you the Justin whom I know and love.

Sincerely,  
Tracy Brown



RICHARD B. COMITER  
MICHAEL S. SINGER  
ALAN H. BASEMAN  
KEITH B. BRAUN  
ANDREW R. COMITER

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October 24, 2018

**PERSONAL AND CONFIDENTIAL**

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

**Re:      Justin Wayne**

Honorable Donald M. Middlebrooks:

My name is Richard Comiter, I have been practicing law in South Florida for over 37 years. I have also been coaching and playing on a softball team since 1991 in Palm Beach County. I have known Justin Wayne for over 10 years as a result of his playing on an opposing team and the last 4 years as a result of him playing on my team. During this period of time, I have spent a substantial period of time getting to know Justin, both on and off the softball field. As a player on the softball team, Justin was the type of player you love to coach. He played hard all the time, always had a smile on his face, was a consummate team player, and was the first one to help someone on the team with a problem on or off the field. My best story involving Justin as a player occurred during our last game we played together in May 2018. Justin had injured his neck while playing in a playoff game the week before. He could not swing a bat without winching in pain. However, we only had nine guys who could play in the game and during the playoffs you cannot pick up a player. Because Justin was such a loyal and caring teammate, he came out to play that game. During the third inning, he tried to catch a ball, and he hurt his back. He could hardly walk.

Page 2

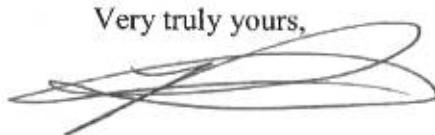
Letter to Justin Wayne  
October 24, 2018

Rather than leave the game, he said let me play first base. At first base he could not move without have a sharp pain in his neck. He played the rest of the game to the best of his physical ability. When he hit the ball, he hopped around the bases, and when he covered first base, he limped to the base. Justin was an inspiration to the team and the whole team rallied around him. I will never forget how his teammates carried him to his car at the end of the game. His teammates loved playing with Justin, because he was such a leader and role model. I loved coaching him, because he was unselfish, and despite being one of the best players on the team, played any position on the field where the team needed a player.

My best story involving Justin as a dad occurred when I called him about playing softball this fall. I asked him how his neck and back were doing. He said he had not played ball since the end of last season and his condition had not really improved. I asked him why. He said my little boy loves for me to pick him up and swing him around, and every time I do it I hurt my neck again. I asked him why he kept doing it, and he said because he would never want to disappoint his son. Thus, he was unable to play softball this season. This is just one example of what Justin Wayne is. He is a caring, considerate, and selfless father who puts his family before himself, just like he did with his teammates on the softball field.

I also knew Justin as a friend outside of the baseball diamond. We went to a spring training game together and I often sat with him at social, charitable and business events. He is bright, articulate, well liked and looked up to by his friends and peers. He always has a kind word to say about other people, and was a person his friends wanted to emulate and follow. I hope that his recent mistake in judgement does not prevent him from being an active and contributing member to our community. I truly believe this world needs more people like Justin Wayne.

Very truly yours,



Richard B. Comiter, Esq.

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Your Honor,

I have known Justin Wayne for a period of 13 years.

I first met Justin while I was the head baseball coach at Jupiter High School. As I was working on the field one day Justin walked up to me and introduced himself. He explained that he was a professional baseball player and asked if he could workout with my team to prepare himself for the upcoming season. I recognized Justin, as I watched him pitch for the Florida Marlins on T.V. I was more than happy to accommodate him.

Several major league ball players have worked out with my team over the years, but none of them were like Justin. He was not there just for himself, he was there to help me and my young athletes. He spent countless hours working with my players at practice, after practice, and on weekends in his spare time. He also donated baseball equipment to the players in need; baseball shoes, gloves, etc. He did it all out of the kindness of his heart.

Justin and I developed a very good relationship. We spent time together at social events and on the golf course. He helped me develop my golf game. He invited me to his wedding. It was evident to me that Justin's main goal in life was to be married and have children, he accomplished his goal and Justin dedicated his life to being the best husband and father a man can be. We have not played golf since the birth of his first child. Needless to say his time is spent with his family, not golf.

Everyone was shocked to find out that Justin was in trouble. I know him to be a man with high morals and integrity. He never spoke an unkind word about anyone. Justin obviously made a mistake that he will have to pay for. I know he will do whatever it takes to make sure he gets back to his family as soon as possible, as this is the most important thing in his life.

Knowing Justin, as I have over the past 13 years, he always was a man of the highest morals, values, and integrity. Thank you for this opportunity to share my personal experiences with Justin Wayne.

Sincerely,

Douglas E. Ferguson

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The Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

October 24<sup>th</sup>, 2018

Dear Judge Middlebrooks,

Thank you for allowing me to briefly share my experience knowing Mr. Justin Wayne. I have known Justin since December, 2014 and have had an extensive business relationship with him as a provider of scientific consulting and training services. As Your Honor's time is precious, I will use point form:

## **Business Ethic**

- From Day 1 of working with Justin, he stood out among all of my clients as wanting to do things properly. He never showed a tendency to cut corners, and not once did he ever push back on the requirements and resources required to develop proper analytical assays with a sound scientific basis.
- I still remember sitting face to face with Justin in his office discussing assay setup and project progress. He was always ready to do what it takes to ensure quality.
- Justin also made sure that his staff received the very best training to do their work properly; and gave them the time they needed to become proficient. As a result, several individuals that I trained at SMART Lab went on to become very skilled and successful scientists in their own rite. The opportunities they got with Justin gave them hard to acquire skills that are benefiting their careers now and for years to come.

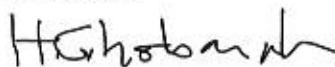
## **Honesty**

- One time I sent Justin an invoice with an error that resulted in him being under-charged by more than \$5,000. He was the one who pointed out the error which would have otherwise gone undetected. I think this speaks volumes about his innate personality and core beliefs.

Justin is very regretful and full of remorse over allowing himself to stray from his ethics and upbringing. He recognizes that during this very trying time for him and his family, he has to own up to what he did and is ready to face the consequences. This crime was very out of character for him and I am absolutely sure that he will never repeat such a mistake again. Sometimes good people do bad things. I pray that the Court will be merciful as it is just.

My sincere gratitude to Your Honor for taking the time to consider this letter.

Respectfully,



Hesham Ghobarah  
Founder & Chief Analyst

**October 9, 2018**

Brenda Glassman  
7043 Ayrshire Lane  
Boca Raton, FL 33496  
561-702-6118

Honorable Donald M, Middlebrooks

United States District Court Judge

701 Clematis Street

West Palm Beach, Florida 33401

Dear Honorable Judge Middlebrooks,

I am writing this letter with tears in my eyes and with a very heavy heart. My name is Brenda Glassman, Justin has been my "Son" in law for three years on December 5<sup>th</sup> 2018.

In those very short years, it didn't take me more than a minute to see what kind of a person he is. As a husband to my daughter and as a father to his children. I couldn't have picked a better man for our baby daughter. Justin and Ashley made their home a complete warm, safe and loving home. Always filled with learning, dancing and laughter. Justin is just the happiest man being with his family.

My family is a very close unit. Every Sunday the fifteen of us get together for catch up, play and dinner. I was such a lucky lady. My Sundays will never be the same without Justin at the table. I feel a piece of my heart is gone.

Myles my Grandson, just two years old, not to have his daddy in his life is just tearing me apart. I cannot look at Myles without knowing what a void not having his daddy in his life will do to him. His beautiful daughter Leilana "2 MONTHS" not to feel his arms holding her when he puts her "night-night" and his soft voice singing and reading to her. I have three daughters and daughters always need their daddy no matter how old they are.

If only you could meet Justin, his wife and children for just five minutes you would so see how important he is to them in their lives.

We all make mistakes, but Justin does not need to be taken away from his young family that he loves more than life.

Thank you for your time.

A VERY Broken Hearted "MOM" in law.

Sincerely,  
Brenda Glassman

*Brenda Glassman*

Exhibit "G"

**Larry D. Glassman  
7043 Ayrshire Lane  
Boca Raton, FL 33496**

October 25, 2018

Honorable Donald M. Middlebrooks  
United States District Court  
701 Clematis Street  
West Palm Beach, FL 33401

RE: Justin Wayne, Sentencing

Dear Judge Middlebrooks,

I have known Justin for more than 5 years and he is married to my daughter, Ashley. I know he takes terrific care of his wife and children. He is a wonderful person, husband, father, son-in-law, and family member. He is a vital part of our family and I love him like a son.

During the preparations for Hurricane Irma in 2017 I awoke at 4:00 a.m. to shutter my home, my daughter's homes, and my mother's home. Justin also awoke very early to come to my aid and help me. He was very adamant that at my age I did not need to be climbing a ladder. Therefore, he climbed the ladder and lifted the panels to the upper windows on the houses for installation. I very much appreciated his help and kindness and his care for my safety.

Justin and Ashley have two very young children. Myles is 2 years old and Leilana is 3 months old. The children both rely on and love Justin. Justin takes an extremely active role in their care and upbringing. Every Saturday morning Justin takes Myles to Little Gym and has a Daddy and Me class for bonding. Myles looks forward to his "Daddy" time as does Justin. I know the children need their father in their lives, because I am an integral part of my children's lives.

I have discussed Justin's case with him. He is completely remorseful for what he has done and to its effect on his wife and children. Thank you, your Honor, for giving me the opportunity to share my knowledge of Justin with you.

Sincerely,



Larry D. Glassman

**Minnie Glassman  
17777 Buckingham Court  
Boca Raton, FL 33496**

October 4, 2018

Honorable Donald M. Middlebrooks  
United States District Court  
701 Clematis Street  
West Palm Beach, FL 33401

RE: Justin Wayne, Sentencing

Dear Judge Middlebrooks,

Justin Wayne is married to my granddaughter, Ashley (Glassman) Wayne. They have two extremely young children. Myles is 2 years old and Leilana is 2 months old. I am 92 years old and I know I can rely on Justin to help me whenever I need him.

Every Sunday night we do a family dinner with my children, grandchildren and great-grandchildren. Justin makes sure each Sunday when he leaves the table he carries both children over to me to receive and give a kiss. He is a wonderful, loving, caring person.

I have just had two recent hospital stays and there was not a day that went by that Justin did not check up on me. Justin is an amazing person, grandson-in-law, husband, father, and family member. I hope you will be lenient with his punishment because at my age every day spent with our family counts.

Sincerely,



Minnie Glassman

*Steven Glassman  
3862 South Lake Drive  
Boynton Beach, FL 33435*

October 24, 2018

Honorable Donald M. Middlebrooks  
United States District Court  
701 Clematis Street  
West Palm Beach, FL 33401

RE: Justin Wayne, Sentencing

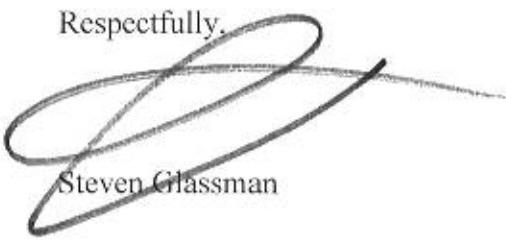
Dear Judge Middlebrooks,

I have known Justin Wayne for a little over 5 years and have found him to be nothing but a perfect gentleman. He is married to my niece, Ashley, and has two beautiful children, Myles and Leilana aged two years and two months. Justin is a loving, doting, caring father and husband. I have spent many a Sunday night family dinner with the Wayne family. He is always holding and kissing and teaching young Myles with love and attention and kindness to every detail. How to sit at a family dinner. How to act with his young cousins and other adults. His parenting approach is with a soft voice a hug and a kiss. His love for his wife is apparent and the same in return from Ashley to Justin. His kindness towards my 92-year-old mother, who is not related to Justin, is admirable. Always asking can I get something from the buffet for you, pulling out her chair when she gets up and walking her around when needed. I worry that his wife and children will dramatically change without the care and hugs of family life with Justin.

I have found him to have honor and integrity in his everyday family life.

I feel bad that he made a mistake and I know he does as well. I hope you can see your way clear to be lenient for this first mistake of his life. I know he is so remorseful and regretful for any and all activities that took place in his business. Please find it in your heart to go easy on your sentencing. A father gone for a long time can only hurt the love ones left behind.

Respectfully,



Steven Glassman

# MARCOS GONZALEZ & ASSOCIATES

PERSONAL INJURY ~ WORKERS' COMPENSATION ~ CRIMINAL DEFENSE

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Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Dear Judge Middlebrooks,

My name is Marcos Gonzalez I have lived in Palm Beach County for 38 years. During my time in this wonderful community, I've been fortunate to have met people from all walks of life possessing a wide spectrum of character traits. I have met folks who, upon meeting them, made me want to stay away as far as possible. I have also met individuals whom I immediately wanted to make part of my family. Justin falls in this latter category. It is for this reason, that this is one of the most difficult letters I've ever written.

While I do not know all of the specifics surrounding the wrongdoing which my dear friend Justin may have committed, my family, including my 17 year old son Marcos Jr. can't believe that a person of Justin's character would find himself in this most difficult situation. We're extremely saddened and hurt by the events that have unfolded in Justin's life, and hope that my words can give this honorable Court some insight into Justin's makeup, and persuade your honor to be as lenient as possible when sentencing him.

The way I met Justin in 2008 illustrates perfectly who he is as person. One night I was having dinner at a local restaurant and met by coincidence his brother Hawkeye. When our conversation turned to how much I enjoyed coaching my son's little league team at Phipps Park in West Palm Beach, Hawkeye mentioned that his brother had played Major League Baseball for the Florida Marlins. As I was leaving the restaurant that night, understanding that it would be a long shot, I mentioned to Hawkeye that it would be wonderful if a Major Leaguer like his brother could come and speak and work with the players I coached at Phipps Park. Not thinking Justin would be interested in giving his time to someone he had never met, I was shocked when, the following morning, I received a call from Justin introducing himself and offering to work with the kids.

A few days later, Justin came to the park and spent almost 3 hours talking to the young kids about baseball fundamentals, and his experiences as a baseball player at Stanford University and with the Florida Marlins. The kids were incredibly excited and listened to every word spoken by Justin. In that group of young players was my 7 year old son Marcos Jr. Justin has remained an important part of my son's life since meeting him at Phipps Park. After that initial meeting, he not only continued working on Marcos' pitching fundamentals, but more importantly, has always over the years given him advice about the importance of academics and developing as a quality young man. Although Marcos Jr. is no longer playing competitive baseball, he has excelled in school academically, and has aspirations of attending

Stanford University just like Justin. Marcos Jr.'s academic achievements are in no small part attributable to the mentoring of Justin.

I was particularly excited when Justin married his wonderful wife Ashley, and shortly thereafter had their first born Myles. More recently they've been blessed with the birth of their daughter Leilana. I've often spoken to Justin about the positive impact he's had in my son's life, and how I think he will be an excellent father. I sincerely hope that any punishment issued by this Court doesn't prevent Justin from being the best possible father to his children. I respectfully request that this Court be mindful of the impact Justin has had on young people like my son, and gives Justin the opportunity possible to be there for his own children.

Sincerely,



Marcos Gonzalez

Constantine S. Hatzivassiliou

10330 Sweet Bay Ct.  
Parkland, FL 33076  
(561) 797-0951  
Constantinehs@yahoo.com

October 10, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

Dear Judge Middlebrooks,

I had the pleasure of meeting Justin Wayne for the first time over a decade ago when I was assigned as his financial account during my tenure at Bernstein Global Wealth Management. Within months of meeting Justin, he called me seeking advice regarding a personal financial matter. During our meeting, he shared that he wanted to better understand his ability to financially support the woman he was dating (Jennifer) and her immediate family (Brother Josh and Mom Patty).

In beginning the analysis, it was evident that Justin was being incredibly generous with his limited finances. Justin created and implemented a plan to pay off existing Law School debt for both Jennifer and Josh and advance pay future law school tuition. Justin was supporting Jennifer who was suffering from severe vertigo and was also subsidizing Patty due to her debilitating autoimmune disease. I repeatedly questioned Justin's decision to assume their liability since it wasn't financially prudent; however, he insisted it was the right thing to do considering all of the issues they were facing. It was a completely selfless act that forever changed my perception of the "stereotypical professional athlete".

Since those events over a decade ago, I have gotten to know Justin very well, having transitioned our relationship from strictly business to an incredibly close friendship. He is devoutly committed to his wife and children and is unwavering in his generosity. I routinely see him go above and beyond in helping others to his own personal detriment. I have so much faith in Justin as a person that if we were blessed with another child, I would look to him as a Godparent to my child. Justin would be a great role model for a child/boy/man because of his values, morals, tenacity, generosity and belief in family.

Thank you for taking the time to read this your Honor; should you need anything further from me, please do not hesitate to contact me directly.

Constantine S. Hatzivassiliou

**Kerry Hoffman  
7328 Ballantrae Court  
Boca Raton, FL 33496**

October 6, 2018

The Honorable Judge Donald Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

RE: Justin Wayne, Sentencing

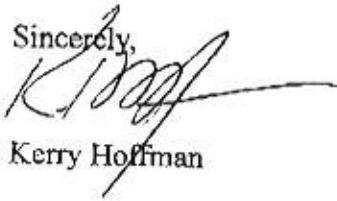
Dear Judge Middlebrooks,

To say that Justin is an excellent father, husband and overall gentleman is an understatement. He exudes such pride when it comes to his family both immediate and extended. He never falls short of having time for any of the children whether it be for games or learning or just having fun. When I first met Justin 5 year ago, I was very impressed by his overall demeanor and how well he seemed to fit in to our family. The news of Justin's charges was heartbreaking for our family. Yes, we understand that he must suffer the consequences his actions. I hope though that in making your decision on punishment, that you are able to consider not only what he has done, but how he has led his life, both before and afterwards. Justin is a selfless, loving and kind man. There is no favor too large or too small for him to do

Justin's family means everything to him. It is beyond earth shattering to try to come to grips with the fact that he may have to be gone from such young impressionable and formative years of his children's lives. We know this is not our Justin and not the true person behind him. When you get to know him deep down you understand just how caring and how concerned for others well being that he is. There has been numerous times that we have been together and out for family dinners that I have noticed the very strong bond and connection that he has with my three daughters. They always seem to gravitate toward their big Uncle Justin who has endless love and affection for them. To take Justin away from his family for any considerable length of time would be a travesty. We truly hope that you will consider all of the facts and characteristics of Justin prior to his sentencing. His wife and children need him beyond what you could imagine as he is an integral part of their family.

Thank you Judge Middlebrooks for taking the time and consideration for hearing my true feelings about Justin.

Sincerely,



Kerry Hoffman

**Kimberly Hoffman  
7328 Ballantrae Court  
Boca Raton, FL 33496**

October 5, 2018

The Honorable Judge Donald Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

RE: Justin Wayne, Sentencing

Dear Judge Middlebrooks,

My name is Kimberly Hoffman and I am writing you this letter to help better describe my brother in law, Justin Wayne.

Justin is the prince in my younger sister Ashley's world!! Ever since she and I were little we both knew we wanted to get married and have children. I am happily celebrating my 18th year of marriage this December with my husband Kerry. We have three daughters. Ashley and Justin will be married three years in December. Justin not only married Ashley on that day, but also my daughters, Kerry, my parents, grandmother, older sister and her husband and their two sons. We do everything together. When I gave my speech to them at their wedding, I ended it with a quote from my favorite song. I told them to "ride the wave where it takes you." I never would have imagined the wave would take them where it is today.

To Justin, family is number one!! He, like my sister always wanted to get married and have children. The first vacation Justin joined us on was two weeks after their wedding. Ashley and Justin decided not to go on a honeymoon just the two of them. Instead they joined the 13 of us on our yearly winter cruise and called it their "familymoon." I remember at the life boat drill the 5 kids were getting a little impatient. Who came to their rescue? Not their parents but Uncle Justin. He sat on the floor with them and started to play a memory game to help pass the time. For the rest of the week he played in the pool with them during the day and made sure they were challenged with mind games at the dinner table.

Education is especially important to Justin. He has helped tutor my girls over the years. They each know if ever they have a question, no matter what it is, Uncle Justin will be happy to help. The girls would always come home with a better understanding of their work. He would even go the extra mile with my middle daughter to teach her a more challenging lesson in math. They just adore him!!

Lastly, I want to speak as the Aunt of 2 year old Myles and 8 week old Leilana. For Myles, the world revolves around Justin. His first word was "mamma" he was not speaking about Ashley, but speaking about Justin. For months he called Justin mamma. Justin created a routine for him and Myles to do at night before bed time. In my life I have never seen anything

like it. Justin turns on music and Myles knows it is time to run up the stairs and run around the loft. Justin swoops him up when its time to brush his teeth. He even has his own toothbrush next to Myles' so they can both brush their teeth together. Then it's bath time, pajama time and book time all before bed, all in the exact order since he could crawl. This gorgeous sweet angelic toddler will have his world turned upside down without Justin. My heart absolutely breaks for him. His beautiful daughter won't even know who he is.

As a mother of three children I am deeply saddened for what these precious children will have to endure without their daddy.

Thank you Judge Middlebrooks for this opportunity to share my feelings about Justin.

Sincerely,

  
Kimberly Hoffman

TRACEY L. KARM  
2134 RADNOR COURT  
JUNO BEACH, FLORIDA 33408  
(561) 627-4343  
(561) 876-7700 cell  
Tracer17@comcast.net

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Honorable Donald M. Middlebrooks:

I am writing to you today to tell you about the real Justin Wayne. The one I am proud to call my cousin and my friend. The one that is not only my family, but a person who holds a special place in my heart.

Justin was drafted by the Montreal Expos in 2000 and came to Jupiter, Florida that summer to train with their Single A team. I hadn't seen Justin since he was a child, because he grew up in Honolulu, Hawaii. There is also a 15 year age difference between us. I got his phone number from his mother, contacted him and invited him to dinner at my house. I lived in Juno Beach, which was where the team was putting him up. We immediately had a connection. He was incredibly sweet to my 2 year old daughter. After having him to dinner, I invited him to stay at our house, instead of the hotel, and offered him our extra car to use. He had purchased a condo, but he hadn't closed on it yet. He was family and I could tell from those few hours that he was a special kid and trusted him completely. He formed a strong bond with my 2 year daughter, and later with my second daughter that was born 6 months later. Through the years, he babysat them and took them to the mall to shop for presents at holidays and birthdays. He even took my girls to their first hockey game (a sport that would become both of their favorites) and bought them their first hockey jerseys.

Justin became an important part of our family. We have shared many family dinners and occasions with him, even after he got married and started a family of his own. My daughters are now 20 and 17 and will always cherish the special times with their cousin Justin.

Thank you in advance for the opportunity to tell you about my cousin. He's a good man who made some bad decisions.



Tracey Karm

# MH MENZER & HILL, P.A.

October 25, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

Dear Judge Middlebrooks:

I appreciate the opportunity to share with you some background on Mr. Justin Wayne that I believe is noteworthy for your consideration. I first met Justin approximately four years ago after he began dating my wife's best friend, and then ultimately married. Over these last four years, I've spent countless hours with Justin and his family. Despite some incredible achievements, Justin is an extremely humble individual. When I first met Justin and learned that he had played professional baseball, he couldn't have been more modest or understated if he tried. As a matter of fact, years ago I had to google Justin's background to learn of his extraordinary achievements as a student athlete at Stanford. This is just the type of person he is, never wanting to impress you, never making you feel that he's better than you, just a regular guy.

Over the last two years, I've had the opportunity to watch Justin become a first time father and watch the devotion and love he shows his family. To say Justin is a hands on father would be an understatement. When I spend time with Justin after work or on the weekends, I don't think I've ever seen a father change as many diapers and spend the amount of time attending to his children's needs as Justin has. I myself expect to be a dad for the first time in the next few weeks and I sincerely hope I can be as good as a father as Justin has been.

When Justin shared with me approximately a year ago what had transpired with his business and how ashamed he was for engaging in wrongful behavior, it was truly heartbreakingly. To say I was lost for words would be putting it lightly. While I'm Justin's friend and of course I wanted to support him the best I could, I want to share with your Honor what I'm most proud of about Justin. While the conversations over the last year could have easily gone to "poor me" and what was going to happen from a legal perspective. Instead, virtually every conversation I've had with Justin had to do with his family and their well being. Justin has routinely shared with me that what kills him the most about his wrongdoing is how he's going to be able to explain things to his children when they're old enough to understand and to make sure they never make the mistakes he's made.

While it's very difficult to try and take a positive out of this awful situation, I really did get to know Justin in a different light. The manner in which he owned up to his wrongdoing to me and the fact that he never took pity in himself was very telling about

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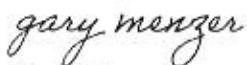
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888-923-9223 toll free  
561-880-8449 facsimile  
[gmenzer@menzerhill.com](mailto:gmenzer@menzerhill.com)

# MH MENZER & HILL, P.A.

who Justin really is as a person. To this day, Justin has never complained to me once about the pending punishment he will face. Instead, Justin's only concern has been and continues to be that his family can endure whatever your Honor believes is an appropriate sentence for his wrongdoing.

While I shared my feelings up to this point as Justin's friend, I'm also an attorney and I would never make representations to your Honor that I did not wholeheartedly believe to be true. In the course of my career, I've seen bad people do really bad things, and I've seen good people make very poor decisions and choices. I unequivocally believe Justin falls into the latter category. As I previously mentioned, putting aside my friendship with Justin, he's proven to me his true character in the manner in which he was honest to me about his wrongdoing and the fact that his concerns are for his family and not about himself or his pending punishment. Justin has shown me he is very remorseful for his misdeeds.

Respectfully,



Gary Menzer

Arlene Pokrass  
2605 Kittbuck Way  
West Palm Beach, FL 33411  
561-616-0016

October 6, 2018

Honorable Donald M. Middlebrooks  
Unite State District Court Judge  
701 Clematis Street  
West Palm Beach, FL 33401

Re: Justin Morgan Wayne

Dear Judge Middlebrooks,

I am Justin's aunt. I only got to see Justin every few years while he was growing up since he and his family lived in Hawaii and my family lived in New York. We got to spend more time with Justin once he was in college at Stanford University. Since Stanford was half way between Hawaii and New York, he would spend some of his vacations with us in New York, where he was then able to spend some time with his other New York cousins. It was during these visits that I realized how important family was to him.

I got to know Justin even better once he started to play in the baseball minor leagues. My husband and I were able to go to many of his games that where in Pennsylvania, New York, New Jersey and Connecticut. This is where he showed me what a sweet caring person he is.

After each game in the minor leagues, he would come out of the clubhouse where the fans would gather hoping to get signatures of the players. As he was going back into the clubhouse after a game in New Jersey, I came up to him to ask a favor. There was an 8 year old boy who was afraid to be in a middle of a crowd due to Autism. When I pointed him out to Justin, Justin turned around and went out to meet and talk with this child. Watching the face on this child was priceless.

Another time, Justin was playing for a team in New Jersey. The team would come to Long Island to play. While the team would stay at a hotel, Justin chose to stay with my husband and me instead. On one of his weekends with us, Justin had a free afternoon and decide to come to the beach with me. Some of the younger kids (they knew he payed professional ball) came over to meet Justin. Justin, then proceeded to play catch with them and to teach them how to throw the ball. Once again he showed us the caring person that he was and still is.

Justin eventually settled in Palm Beach County.

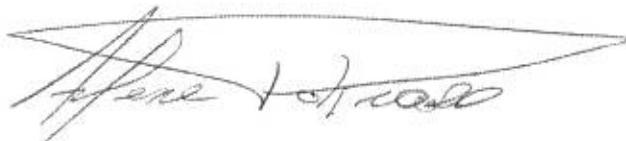
My husband and I moved to West Palm Beach ten years ago. This allowed us to spend unlimited amount of time with Justin.

Justin's parents taught him about the importance of family. As I get older, I see more and more people who do not speak with their children or with their family. I am so grateful for how close we have become even though he grew up so far away from us.

I also see the loving relationship he formed with not only with my children, his first cousins, but his other relatives that grew up in New York.

Thank you in advance for allowing me the time to brag about my nephew Justin.

Sincerely,

A handwritten signature in black ink, appearing to read "Arlene Pokrass". The signature is fluid and cursive, with a horizontal line extending to the right at the end.

Arlene Pokrass

Leslie Pokrass  
2605 Kittbuck Way  
West Palm Beach, FL 33411  
561-616-0016

October 8, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

Re: Justin Morgan Wayne

Your Honor,

My name is Leslie Pokrass. I am Justin's uncle living here in West Palm Beach.

For many years the Wayne Family was living in Hawaii and would visit us in New York. When Justin went off to college on the mainland, to Stanford University, he would come to New York and stay with us during some of his vacation periods. Upon graduating, Justin was drafted into professional baseball. The minor league teams that he was assigned to were in the Northeast area. This gave us the opportunity to attend many of his games. Because we were local, he was allowed to stay with us when he wasn't pitching or had a day off. At that time we got closer to Justin and found that he was a caring, giving, considerate family orientated young man.

We attended many of his games where we saw his interactions with children that would seek autographs from the players after the games. He represented himself professionally with a professional attitude and a smile for each child and adult that sought his signature. He always answered the questions that were asked of him, often with an explanation. He would always give the kids encouraging words when they asked those baseball related questions. To the adults it was the same smile and "yes sir & no maam" to their questions. He would stay until each person received the autograph before he would go back into the clubhouse.

While he did the autograph session I observed that whether he had a good outing or a poor outing his demeanor towards the fans always remained polite, courteous and thoughtful.

I know that Justin has gotten himself into some serious trouble , for which he is going to be punished. I did want your honor to know about the “other” side of this warm, caring and generous man however.

I would like to thank the court for taking the time to read my lettering share my experiences with Justin.

Sincerely,

A handwritten signature in black ink that reads "Leslie Pokrass". The signature is fluid and cursive, with "Leslie" on top and "Pokrass" below it.

Leslie Pokrass

October 8, 2018

Ashley Wayne  
17783 Cadena Drive  
Boca Raton, Florida 33496  
561-350-8401

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

Re: Justin Wayne

Dear Honorable Judge Middlebrooks,

I am writing to urge leniency on Justin Wayne.

My name is Ashley Wayne and I'm Justin Wayne's wife. I was a preschool teacher for 12 years at a Jewish preschool in Boca Raton. Now I'm a stay at home mom of our two children who are 2 years old (Myles) and 2 months old (Leilana).

Justin and I met four years ago. He had every quality I was looking for in a forever partner. He was respectful, kind, funny, smart, caring and very family oriented. He came from a family very similar to mine. Both of our parents have been married for 45 years and we both have one living grandparent who is the exact same age, 91. Justin always calls my family or his to get together just because he knows family is so important. He won the hearts of all my family members because of his love and devotion to my family and me. On some weekends he will take the time to tutor my nieces and nephews on schoolwork because Justin always stresses how important education is.

Justin and I knew what we both wanted in life. We wanted to find each other and start a family. Justin is so hands on with our son and daughter. I have never seen a father be so committed. Being a preschool teacher I have seen a lot. Every time Justin comes home from work the first thing he has to do is hug and kiss our children and me. Then he takes our son Myles outside for a walk or goes into the playroom to spend time with him until dinnertime. Our son Myles is extremely attached to Justin. He always calls out for dada. Actually for a short period of

time our son was calling him mama because he was so hands on. So many people make comments to me on how lucky I am to have a husband like him. They could see how involved and what a natural he is with children. We just had another child a little girl Leilana who is amazing. Every single night Justin gives her the bottle and put her to sleep. That is his bonding time with her and he will never give up that responsibility. Justin would rather stay at home with his family then go out or even go on vacation. Justin's number one priority is his family.

Justin means the world to me and without him, I feel disoriented. His sole purpose in life is to be a devoted, loving, and respectful husband and father. I can't imagine him not being here with our children and me and not being able to see the milestones of his children who he cares about more than life itself. With two young children, it can be extremely stressful. Justin is that one person who can calm me down and bring me back to reality. Without him, I don't know how I will be able cope. He is extremely supportive and helpful with both kids and we will all be lost without him.

This entire situation is a nightmare. My heart breaks for Justin because I know the type of person he is. That he might be taken away from his family is heartbreaking. He knows and has expressed to me that he is going to be punished for the rest of his life because now his son and daughter can't look at him as a role model anymore. Please I beg you for Justin's family's sake, have leniency on him. He's such a good-hearted person. I appreciate you taking the time to read this and learn the type of person Justin really is. Thank you for this opportunity.

Sincerely,

A handwritten signature in black ink that reads "Ashley Wayne". The signature is fluid and cursive, with "Ashley" on top and "Wayne" below it, both starting with a capital letter.

Ashley Wayne

October 24, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Florida 33401

Your Honor,

Thank you for taking the time to read this letter, written on behalf of my son, Justin M. Wayne. I hope that it gives you some insight into his character and background.

We were very blessed to have a child who was simply born “good”. Although there were times when he had to be disciplined, I cannot recall many. I just had to raise my voice and tears would be in his eyes. He never wanted to disappoint. While there were spats with his brothers (to which I was usually not privy) Justin was always self-disciplined beyond his years, compassionate, considerate and respectful to all. Justin completed his tasks without ever having to remind him to do so and was the only one who accompanied his mother in the kitchen (while classical music was playing) to help me cook and make the chore enjoyable. His brothers called him “Goofy” and at times he was.

Justin’s teachers always gave him high praise and appreciated having him in their class. The same could be said regarding our neighbors, our friends and his friends’ parents. I recall an incident – it was a school holiday, his parents were at work, his brother asked him to join him and his friends to go to the beach. Not surprisingly Justin replied that he wanted to stay home to do his homework and that is what he did. In music class Justin did not get to play the instrument he wanted. Striving to do well, he practiced and played it throughout the semester and thereafter never played another instrument. In school Justin selected German as a foreign language—much to his regret. He chose German because his paternal grandmother was from Germany and I believe he wanted to please her and his father. Let’s just say he did not have an aptitude for foreign language and did not do well, something he was not used to.

Justin played AYSO soccer for many years. He was the consummate team player. He usually played center position allowing him to control and pass the ball. While there were many opportunities to “hog” the ball and try for a goal, Justin would pass the ball and allow his teammates to take the goal shot. He never had a need to be the hero. Years later Justin and I attended a dinner with many unfamiliar adults. One mother expressed her concern for her daughter who played goalie position and worried that her daughter felt like she was always letting her teammates down. Justin was quick to point out to all of us that if the opponent team was able to get the ball that close to the goal area it was her teammates who had not done their job. I wondered why the rest of us had not thought of this. It certainly gave the mother a new perspective.

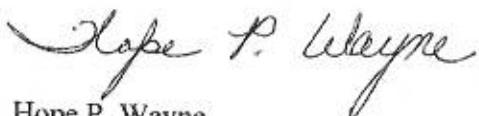
Justin has continuously held himself up to very high moral standards (ironic under his current situation). In high school he had to balance the mental and emotional attitudes to

the tasks expected of him. While always a good student, he was also a fine athlete and he struggled to fit in with his "jock" friends whose morals were not always up to his self-imposed high standards. He and I had long discussions regarding friends and acquaintances. I compared them to the journey of life. Some people take the express train and get off, some take the local train and others do not get off at any of the stops—they stay with you for life. You must accept and enjoy each friendship for what it is. The point being: never expect others to live up to your expectations or you will be very lonely.

Today Justin is still the same person described above: generous of time and affection, thoughtful, caring, and always there for anyone in need. He dotes on his parents as if we were children. In fact, when we leave his home at night he requests that we call him to let him know we arrived home safely. Not once has he talked about his impending imprisonment as it concerns himself. He is a very attentive husband and father to his 2 very young children and only worries about them and the status of his marriage.

Again, I thank you for the time you have taken to read this letter.

Respectfully submitted,



Hope P. Wayne

Jeffrey A. Wayne

4662 Fountains Drive South

Lake Worth, Florida 33467

October 23, 2018

Honorable Donald M. Middlebrooks

United States District Court Judge

701 Clematis Street

West Palm Beach, Florida 33401

Your Honor,

This letter is in support of my son, Justin M. Wayne. While by definition you might expect it to be biased on his behalf, as his father and as an officer of the court (licensed in Hawaii), I hereby pledge to you I will be as objective as possible.

Justin, since childhood, has always been a thoughtful, honest, generous, kind, caring person always supporting the weak and less fortunate. He was always a good student who embraced our suggestion that his job was to go to school, learn as much as possible, "train your brain" and make the world a better place because you are in it.

As a child he always shared his belongings and supported those more fragile. I would regularly be told by his pre-school principal that he would defend the girls in the sandbox and playground from boys who would bully them and counsel the bullies about the error of their ways. Similarly he interceded in other bullying episodes supporting the bullied.

He was always an extraordinarily good student who helped his classmates. It was not uncommon for him to tutor them in all subjects as needed.

He wanted to be a pediatric surgeon to help children through painful injuries as he had experienced when he received wonderful care from an orthopedic as a 12 year old who treated him for a broken and dislocated toe in a manner that enabled him to continue playing his favorite sport, baseball.

I swear, he was the most perfect child. He was never a behavior problem, never had to be coaxed to do his homework or his family chores. Teachers and his coaches in various sports would regularly comment about his outstanding attributes. This continued through college where his Stanford baseball coaches would comment about what a wonderful person he was as well as an "All American Pitcher".

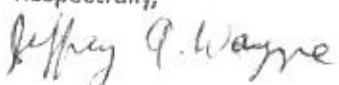
While his professional baseball career was short-lived, following it he befriended a girl who with her brother was attending law school on a very limited budget and with only a mother with health issues for

support. Through Justin's generosity he paid for their tuition, book and bar review course bills as well as some medical bills for their mother which she could not afford. His generosity is not limited to money. He spends time with his elderly maternal grandfather.

He is a very hands on father of a newborn daughter and 2 year old son.

This is the kind of man my son Justin is. Thank you for giving me the opportunity to share this with you as you consider Justin's fate.

Respectfully,



Jeffrey A. Wayne

Alyson Yellin  
9645 Bridgebrook Drive  
Boca Raton, FL 33496

October 4, 2018

The Honorable Judge Donald M. Middlebrooks  
United State District Court  
701 Clematis Street  
West Palm Beach, FL 33401

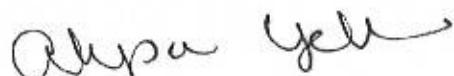
RE: Justin Wayne, Sentencing

Dear Judge Middlebrooks,

Justin began dating my sister a little over five years ago. I knew the moment I met him what a wonderful addition he would be to our family. Justin is the brother I always wanted and never had. He is the most amazing uncle to my children. Every Sunday morning at 9am my phone rings and it's Justin asking if he could take my two boys along with his son Myles to the park and then to breakfast. When my boys need help with schoolwork, Justin is the first person they call. He always makes time to help them with schoolwork and studying. He has such patience with my children especially my oldest who is ADHD. When my children have basketball games I can always count on Justin cheering them on from the sidelines.

He is an amazing father to Myles (2years old) and Leilana (2 months old) and an amazing husband to my sister Ashley. I understand that Justin has committed a crime, and for that he must suffer. Thank you for the opportunity to write to you before you make your decision about Justin's fate. His family needs him.

Respectfully,



Alyson Yellin

October 4, 2018

Honorable Donald M. Middlebrooks  
United States District Court Judge  
701 Clematis Street  
West Palm Beach, Fl. 33401

RE: Justin Wayne

Dear Judge Middlebrooks,

My name is Brad Yellin, a Trauma Specialist with Johnson & Johnson in West Palm Beach Florida. I have known Justin for a little over five years, and he has been my brother-in- law since December, 2015. He is married to my wife Alyson youngest sister Ashley. Since the first time I met Justin we hit it off, he is one of my best friends and the type of guy that if you needed one person in this world to count on, I would call Justin without hesitation. He is extremely hardworking, loyal, and loving family man, not only to Ashley, and his two young children Myles and LeiLana, but to my two boys Brandon and Mason.

Brandon, my 14-year-old son has ADHD, sometimes extremely difficult in handling; he is a great kid but very impulsive and gets himself in trouble at school and home. Justin doesn't really see that. He sees his nephew, and loves him and will talk to him if he does or says something wrong to make him understand, but doesn't make him feel like he's trouble. He is always asking to do things with him like come to the mall with his kids or hanging out to watch a game, driving by the house and calling to see if the kids want to shoot hoops in our driveway etc. etc.

Justin always wants to have my boys over to his house, whether it's to play with Myles, go to the park, take them to dinner and the mall or just hangout to watch a game they love hanging with him. He also, loves to help tutor kids. Not only my boys, but my nieces Mikayla, Hailey & Brianna have asked him to help study. Justin never says no, he will always make time to help.

I understand Justin has pleaded guilty to the court and while this will undoubtedly be the hardest time for him, Ashley and our entire family, we know, it will get better. We all love him, we stand behind him and we will be here when he gets home.

Judge Middlebrooks, I would like to thank you for taking the time to read my letter and let me share with you some of my thought and feelings that I have for Justin.

Regards,

  
Brad I. Yellin